

REMARKS

As a preliminary matter, Applicant appreciates the Examiner's cooperation and assistance provided during the personal interview of July 19, 2005.

Claims 13-20, 22-26, 28-59 and 63-67 remain pending in the application.

Applicant has amended claims 13, 34, 37, 42-44, and 51-54 above to address non-substantive matters of form, specifically, grammatical and antecedent issues. Approval and entry of these amendments are respectfully requested.

Claims 13-17, 20, 22-26, 28-47, 50-59, 63, and 66 have been rejected under 35 U.S.C. § 103(a) (hereinafter "Section 103") as being unpatentable over Bangs (2,194,412) in view of Aghassipour (5,595,320).

Applicant respectfully traverses this rejection.

As memorialized in the Interview Summary of July 19, 2005, during the personal interview an agreement was reached that all rejections based on the combination of Bangs and Aghassipour would be withdrawn upon the filing of this response.

The Section 103(a) rejection is premised on the Examiner's opinion that a person of ordinary skill would have found it obvious to modify the alleged inner container 10 of Bangs "to provide an insulating material in the container of Bangs having a metalized surface extending throughout the wall and flexible bubble pack material as taught by Aghassipour to keep perishable contents cold for substantially long periods of time." (Office Action, pages 4-5)

Applicant respectfully disagrees with the conclusion of the Examiner. Bangs discloses that his alleged inner container 10 is nothing more than a water-proof liner. Bangs gives no mention of the container 10 having any insulation properties. To the contrary, Bangs makes use

of a separate pad 11 and folder 15 for providing insulation. Accordingly, a person of ordinary skill would not have been motivated to modify container 10 to make it insulating.

Additionally, Applicant respectfully submits that combining Bangs and Aghassipour would require one to move in a completely opposite and contrary direction to the teaching of the Bangs and would render the Bangs device inoperable for its stated purpose. Figure 2 of Bangs shows the refrigerant 14 positioned below and outside of the container 10. If container 10 were modified as suggested by the Examiner, i.e., to metalize the surface of the alleged inner container 10 of Bangs and thereby make container 10 into an insulator, the refrigerant 14 would not be able to cool the contents of container 10. Stated differently, the container 10, as modified by the Examiner's combination, would thermally isolate its internal contents from the refrigerant 14 located outside of container 10. As such, Bangs teaches squarely away from the combination of the references utilized by the Examiner to form the obviousness rejections in this case.

Applicant notes that during the personal interview, the Examiner raised the possibility of further modifying Bangs to place refrigerant 14 inside of container 10. Applicant responded, and the Examiner agreed, that Bangs not only fails to disclose or suggest placing refrigerant 14 inside of container, but teaches away from doing so. Column 1, lines 8-12 of Bangs state, in part, as follows:

In packing or preserving foods with a refrigerant, great care must be maintained, as the use of too much refrigerant or its too close proximity to the food causes the food to become to [*sic*] stiff and to need prolonged thawing. . . .

To address these problems of stiffness and thawing, Bangs placed the refrigerant 14 outside of the container 10 to maintain space between the food and the refrigerant.

For the above reasons, the Section 103 rejection should be withdrawn.

Further, Applicant respectfully points out that Bangs is merely cumulative of U.S. Patent No. 5,441,170 to Bane, which was previously cited in the Office Action of November 2, 2004. Both Bane and Bangs disclose an alleged inner container (reference character 10 in Bangs, L in Bane) that serves primarily to contain spills. As Applicant stated in his response of June 2, 2005 with respect to the Bane patent:

Nowhere does Bane teach or suggest the possibility of using the spill containment device (L) as the insulator or by combining the insulating panels or other insulated material within the inner spill containment device. The structure and purpose of the inner container is only to contain spills.

The same holds true for Bangs: the stated purpose of the inner container 10 of Bangs is only to contain spills. In view of the Examiner's withdrawal of the rejections based on Bane, Applicant respectfully submits that the claims likewise define over Bangs. For this additional reason, the Section 103(a) rejection should be withdrawn.

Claims 33, 34, and 40 have been rejected under Section 103 as being unpatentable over Bangs and Aghassipour, and further in view of McCord (728,749).

Applicant respectfully traverses this rejection. The rejection is premised on the existence of motivation at the time the invention was made for combining Bangs and Aghassipour. As explained above in detail, a person of ordinary skill in the art would not have been motivated to combine Bangs and Aghassipour because, *inter alia*, such combination was not suggested by the art and would have been contrary to the stated purposes of Bangs. The McCord patent, which the Examiner cited for its alleged disclosure of collapsible side walls, does not overcome this deficiency, i.e., McCord does not provide the requisite motivational teaching for combining Bangs and Aghassipour. Accordingly, reconsideration and withdrawal of the Section 103 rejection of claims 33, 34, and 40 are respectfully requested.

Claims 18 and 19 have been rejected under Section 103 as being unpatentable over Bangs and Aghassipour, and further in view of Becker (4,929,094).

Applicant respectfully traverses this rejection. The rejection is premised on the existence of motivational teachings in the art at the time the invention was made for combining Bangs and Aghassipour. A person of ordinary skill in the art would not have been motivated to combine Bangs and Aghassipour for the reasons advanced above. The Becker patent, which the Examiner cited for its alleged disclosure of releasable means, does not provide the missing motivational teaching for combining Bangs and Aghassipour. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the Section 103 rejection of claims 18 and 19.

Claims 48, 49, 64, 65, and 67 have been rejected under Section 103 as being unpatentable over Bangs and Aghassipour, and further in view of Becker (4,929,094).

Applicant respectfully traverses this rejection. The rejection is premised on the existence at the time the invention was made of motivational teachings in the art for combining Bangs and Aghassipour. As explained above, a person of ordinary skill in the art would not have been motivated to combine Bangs and Aghassipour. Becker, which has been cited for its alleged disclosure of inserting an inner container into an outer container, does not overcome this deficiency, i.e., Becker does not provide the requisite motivational teaching for combining Bangs and Aghassipour. Accordingly, reconsideration and withdrawal of the Section 103 rejection of claims 48, 49, 64, 65, and 67 are respectfully requested.

For the foregoing reasons, Applicant respectfully submits that all claims define patentable subject matter over all the references of record. The Applicant respectfully requests allowance of all claims. The Applicant further requests that an interview be granted prior to any action on this response. If the Examiner has any questions regarding this response, he is invited to contact Applicant's attorney at the telephone number listed below.

Respectfully submitted,



David S. Taylor
Registration No. 39,045

BERENATO, WHITE & STAVISH, LLC
6550 Rock Spring Dr., Suite 240
Bethesda, MD 20817
Telephone: (301) 896-0600
Facsimile: (301) 896-0607